

REMARKS

Reconsideration of the outstanding Office Action is respectfully solicited.

Claim 1 is amended to delete internal periods[.]. Claim 4 has been amended in accordance with the specification pages 6-7, the line/sentence bridging pages 6-7.

Accordingly it is believed that the objection to Claim4 is no moot. Applicants respectfully traverse the rejection of claims 10 and 11 under 35 USC 101. It is believed that the amendment moots the rejection of the claims.

Applicants respectfully traverse the rejection of claims 1-6 and 12 under 35 USC 102(b) over Brehmer 4717496 or Goldberg or British United Shoe Machiner

Brehmer US 4,717,496 is not novelty destroying because it does not disclose the invention and the advantageous properties which can be reached. Example 1 of the '496 has been tested according to the method of the instant invention and was found to produce a product that does not possess the desired properties and suitability. The Table 2 [with a title of "new table 2"] attached hereto shows that the instant invention has unexpectedly new and advantageous properties.

Goldberg provides a completely different solution to manufacture materials for so called shoe stiffening materials. Its method and materials used therein according to the claims is firstly a reactive hot melt adhesive or sealing composition which is contacted with a non-woven fabric to which also added is a finely divided powder adhesive polymer to form a latex saturated non-woven fabric and drying said fabric. This latex saturated fabric is then later cut and skived into pieces and the shoe is provided with the stiffening parts under heat and transformation. That method is directed to the manufacture of a sheet or flat coated article. The article itself does not the same

properties as in the instant invention due to the fact that it necessarily contains or comprises a non-woven fabric which holds the coating sheet together. By comparison the instant invention does not contain or comprise any fabric as substrate layer. The inventive material is per se an extruded foil or sheet comprising only the thermoplastic hot melt adhesive (es) properties and a certain amount of inert filler. Before the thermoplastic hot melt adhesive (es) /filler compound is extruded, the hot melt adhesive alone must possess the properties according to the claims and after containing the filler. No disclosure in the Goldberg invention is to be found which relates to any of these important features.

In WO9403211 there is described material used for orthopedic splinting or casting comprising mainly of two components: a) a polyester having molecular weight of not less than 10.000 and a viscosity of at least 30 Pa.s. The polyester can be a poly-epsilon caprolactam or a polyhexamethylene-adipate with a molecular weight of at least 30.000 and a viscosity measured at 100°C of at least 600 Pa.s. In our invention the material hot melt adhesive according to claim 1 a) must have a melt flow index (MVR value) measured at 100 °C based on the DIN ISO 1133 ranging from 2 to 300, preferably from 10 to 20 cm³/10 min. According to table 1 in the application examples 1,2,3 and 8, with poly-epsilon caprolactam(s) with average molecular weights of 80.000, these products with the appropriate filler materials are within the “inventive product property window” which means that the products are characterized by the parameters 1 to 4 according to the claims.

Applicants wish to note that only the property of the “finished formulation” e.g. the hot melt adhesive/filler compound determines the suitability or usefulness of the material in

the shoe stiffening application. If the parameters are not reached the material is not suitable for the inventive purpose namely for shoe stiffening material. This can be seen from examples 4 or 6; neither reports to the requirements for the suitability.

In WO9403211 designed for splinting application where elasticity is more important than the stiffening characteristics. An additional difference is the fact that in WO 9403211 a fabric is used as a substrate; otherwise the material can not be applied to body parts. The material here is in sandwich form with more than one layer of fabric. Also the manufacturing method is completely different; namely applicants compound consisting of the hot melt adhesive and the filler is extruded and melted under a heating source like an infrared heater.

Applicants respectfully traverse the rejections under 35 USC 103 over Brehmer, Goldberg or British United Shoe, in view of Gaku et al., Oien 5525663 or Lees et al; Applicants rely on the comments above concerning the three primary references and incorporated them by reference here. The secondary references to Gaku, Lees et al and Oien are discussed below.

6. In reference Gaku US 4820,729 there is described a hot melt adhesive composition which consists of 99 to 80 w.t % of a A) thermoplastic resin selected from the group amorphous thermoplastic saturated polyester resins and an ethylene-vinyl acetate copolymer (called also as EVA) and a further component called ethylene-ethyl acrylate copolymer and as second component B) 1 to 20 w.t % a mono or polyfunctional cyanate ester. This composition is designed to be a hot melt adhesive for various purposes; but not as stiffening material for shoes. In this composition there no filler is

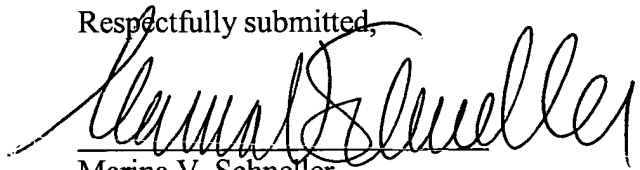
added and the claim requirements of the finished hot melt adhesive/filler composition are not mentioned. This reference is silent to the recitations in the rejected claims.

7. US 5,525,663 describes a reactive hot melt adhesive which is used in the automotive market, in door sealing etc, see column 1, lines 24 to 36. The reactive hot melt is mainly urethane that can combine the rapid set or crystallization times of conventional nonreactive hot melt adhesives with the high bond strengths of a curing system. In this hot melt adhesive preferably glass are used as fillers, column 6, line 26. Glass bubbles effect advantageously the re-crystallization process as during the application of the hot melt adhesive as the hot melt adhesive is melt/the application occurs in the liquid state and crystallizes under cooling down to room temperature, see description in column 7, from line 19 ff. This reference does not suggest the material nor the application or the functional properties of the material according to this application.
8. US 2006/0121225 describes an adhesive formulation combined with some fillers but only those materials which are admitted by the FDA for food contact applications. These adhesives are not applicant's hot melt adhesive component. The reference is silent with respect to any of the inventive properties, which are prerequisite to obtain a product which is suitable as shoe stiffening material.

Reconsideration and an early allowance are respectfully solicited.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Marina V. Schneller', written over a horizontal line.

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